

CHARLES J. McKEE (SBN 152458)
County Counsel
TRACI A. KIRKBRIDE (SBN 195690)
Deputy County Counsel
Office of the County Counsel
County of Monterey
168 West Alisal Street, 3rd Floor
Salinas, California 93901-2680
Telephone: (831) 755-5045
Facsimile: (831) 755-5283
Email: kirkbrideta@co.monterey.ca.us

Attorneys for Defendants COUNTY OF MONTEREY and
MICHAEL KANALAKIS

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JIMMY D. HAWS, SETH DANIEL HAWS,
and MIA SKYE HAWS, minors, by and
through their guardian ad litem, CARRIE A.
HAWS, and CARRIE A. HAWS,
individually,

Case No. C 07-02599 JF

**DEFENDANTS COUNTY OF MONTEREY
AND MICHAEL KANALAKIS' ANSWER
TO PLAINTIFFS' FIRST AMENDED
COMPLAINT; DEMAND FOR JURY
TRIAL**

Plaintiffs,

COUNTY OF MONTEREY, MICHAEL KANALAKIS, NATIVIDAD MEDICAL CENTER and DOES 1-300, inclusive.

Defendants.

In answer to plaintiffs' First Amended Complaint (FAC) for Violation of Civil Rights defendants COUNTY OF MONTEREY and MICHAEL KANALAKIS (County defendants) allege as follows:

JURISDICTION

1. To the extent plaintiffs allege causes of action under Title 42 of the United States Code, Section 1983 and Title 28, Sections 1331 and 1343, County defendants admit that this Court has jurisdiction over this proceeding.

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VENUE

2. County defendants admit that the Northern District of California is the proper venue for this action.

CLAIMS REQUIREMENT

3. County defendants admit plaintiffs filed a claim against the defendants on January 18, 2007.

PARTIES

4. County defendants are without information sufficient to form a belief as to the veracity of the allegations contained in paragraph 4 and on that basis denies said allegations.

5. Except for the nomenclature as the "Salinas" jail, and except for the fact that the proper title for the jail's administering body is the Monterey County Sheriff's Office (MCSO), the County defendants admit the allegations of paragraph 5.

6. Except for the nomenclature as the “Salinas” jail, and except for the fact that the proper title for the jail’s administering body is the Monterey County Sheriff’s Office (MCSO), County defendants admit the allegations contained in paragraph 6.

7. County defendants are without sufficient information to form a belief as to the veracity of the allegations contained in paragraph 7 and on that basis deny said allegations.

8. County defendants admit that Natividad Medical Center (NMC) is a public hospital which does provide medical treatment to certain persons detained by the County in the jail.

9. County defendants are without sufficient information to form a belief as to the veracity of the allegations contained in paragraph 9 and on that basis deny said allegations.

10. County defendants are without sufficient information to form a belief as to the veracity of the allegations contained in paragraph 10 and on that basis deny said allegations

STATEMENT OF FACTS

12. County defendants admit the allegations of this paragraph.

13. County defendants deny the allegations of paragraph 13.

14. County defendants admit that Haws and Spencer were housed together in the D pod of the jail. County defendants deny the remainder of the allegations in paragraph 14.

15. County defendants admit that this incident occurred on December 7, 2006. County defendants deny the remainder of the allegations in paragraph 14.

16. County defendants are without sufficient information to form a belief as to the veracity of the allegations of paragraph 16 and on that basis deny said allegations.

17. County defendants are without sufficient information to form a belief as to the veracity of the allegations of paragraph 17 and on that basis deny said allegations.

18. County defendants admit that at approximately 11:00 a.m., a deputy observed Haws falling down the stairs of D-Pod. Defendants are without sufficient information to form a belief as to the veracity of the remainder of the allegations of paragraph 18 and on that basis deny said allegations.

19. County defendants are without sufficient information to form a belief as to the veracity of the allegations of paragraph 19 and on that basis deny said allegations

20. County defendants are without sufficient information to form a belief as to the veracity of the allegations of paragraph 20 and on that basis deny said allegations.

21. County defendants are without sufficient information to form a belief as to the veracity of the allegations of paragraph 21 and on that basis deny said allegations.

DAMAGES

22. County defendants deny that any actions by defendants caused plaintiff to suffer any injury or damages and to that extent the allegations of paragraph 22 are denied. As to the actions of other defendants, this answering defendant has insufficient information to form a belief as to the veracity of these allegations which are therefore denied.

23. County defendants deny that any actions by defendants caused plaintiff to suffer any injury or damages and to that extent the allegations of paragraph 23 are denied. As to the actions of other defendants, this answering defendant has insufficient information to form a belief as to the veracity of these allegations which are therefore denied.

24. County defendants deny that any actions by defendants caused plaintiff to suffer any injury or damages and to that extent the allegations of paragraph 24 are denied. As to the actions of other

1 defendants, these answering defendants have insufficient information to form a belief as to the veracity
2 of these allegations which are therefore denied.

3 25. County defendants deny that any actions by defendants caused plaintiff to suffer any injury
4 or damages and to that extent the allegations of paragraph 25 are denied. As to the actions of other
5 defendants, these answering defendants have insufficient information to form a belief as to the veracity
6 of these allegations which are therefore denied.

7 26. County defendants deny the allegations of paragraph 26.

8 27. County defendants have insufficient information to form a belief as to the veracity of
9 these allegations which are therefore denied.

10 **FIRST CAUSE OF ACTION**

11 28. County defendants incorporate and reallege their response to all preceding paragraphs of
12 this Answer.

13 29. County defendants deny the allegations of paragraph 29 and all its subparts.

14 30. County defendants deny the allegations of paragraph 30.

15 31. County defendants deny that any actions by defendants caused plaintiff to suffer any injury
16 or damages and to that extent the allegations of paragraph 31 are denied. To the extent this paragraph
17 alleges that defendants other than the County defendants acted as alleged, these defendants are without
18 sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

19 32. County defendants deny the allegations of paragraph 32.

20 33. County defendants deny the allegations of paragraph 33.

21 34. County defendants deny the allegations of paragraph 34.

22 35. County defendants deny the allegations of paragraph 35.

23 **SECOND CAUSE OF ACTION**

24 36. These defendants reallege and incorporate by reference each of the preceding paragraphs of
25 this Answer.

26 37. County defendants are without sufficient information to form a belief as to the veracity of
27 the allegations which are therefore denied.

28 38. County defendants deny the allegations of paragraph 38.

39. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 39 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

THIRD CAUSE OF ACTION

40. These defendants reallege and incorporate by reference each of the proceeding paragraphs of this Answer.

41. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

42. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

43. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

44. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

45. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

46. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

47. The County defendants deny the allegations of paragraph 47.

48. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 48 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

49. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

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FOURTH CAUSE OF ACTION

50. County defendants reallege and incorporate by reference each of the proceeding paragraphs of this Answer.

51. The County defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

52. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 52 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

53. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 53 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

FIFTH CAUSE OF ACTION

54. These County defendants reallege and incorporate by reference each of the proceeding paragraphs of this Answer.

55. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 55 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

56. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 56 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

57. County defendants deny that any actions by defendants caused plaintiffs to suffer any injury or damages and to that extent the allegations of paragraph 56 are denied. To the extent this paragraph alleges that defendants other than the County defendants acted as alleged, these defendants are without sufficient information to form a belief as to the veracity of those allegations which are therefore denied.

SIXTH CAUSE OF ACTION

58. These County defendants reallege and incorporate by reference each of the proceeding paragraphs of this Answer.

59. There is no such facility entitled "the Salinas County Jail". These County defendants admit that the County owns the county jail facility and that the jail is operated and administered by the Monterey County Sheriff's Office. The remainder of the allegations of paragraph 59 are denied.

60. County defendants deny the allegations of paragraph 60.

61. Defendants are without sufficient information to form a belief as to the veracity of these allegations which are therefore denied.

62. County defendants deny the allegations of paragraph 62.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state facts sufficient to constitute a cause of action against these answering defendants.

SECOND AFFIRMATIVE DEFENSE

The Complaint is barred by the appropriate statute of limitations.

THIRD AFFIRMATIVE DEFENSE

That the damages, if any, complained of by plaintiff were proximately caused by the negligence of firms, persons, corporations and/or entities other than these answering defendants and that said negligence comparatively reduces the percentage of any fault by these answering defendants, if any can be found, which negligence defendants expressly deny.

FOURTH AFFIRMATIVE DEFENSE

That plaintiff Jimmy Haws did not exercise ordinary care, caution or prudence to avoid the injuries alleged in the Complaint and that said injuries were directly and proximately caused and contributed to by the negligence of plaintiff Jimmy Haws.

FIFTH AFFIRMATIVE DEFENSE

That the injuries alleged in the Complaint were proximately caused by acts or events which were unforeseen and unforeseeable and over which these defendants had no control.

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SIXTH AFFIRMATIVE DEFENSE

In the event that defendants are found to be negligent, which is expressly denied, the liability of defendant is limited by reason of California Civil Code §1431.2.

SEVENTH AFFIRMATIVE DEFENSE

County defendants are immune from liability to Plaintiffs under California Government Code §844.6(2).

EIGHTH AFFIRMATIVE DEFENSE

These defendants specifically reserve their right to amend this Answer, with leave of court, for the purpose of asserting additional affirmative defenses that become available or appear during discovery in this action.

DEMAND FOR JURY TRIAL

Defendants respectfully demand that the present matter be set for jury trial.

DATED: September 20, 2007.

Respectfully submitted,

CHARLES J. McKEE, County Counsel

By /S/ Traci A. Kirkbride
TRACI A. KIRKBRIDE, Deputy County Counsel

Attorneys for Defendants COUNTY OF MONTEREY
and MICHAEL KANALAKIS

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